GOVERNMENT OF INDIA
LAW , JUSTICE AND COMPANY AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:3022
ANSWERED ON:07.12.2000
JUSTICE V. ERADI COMMITTEE REPORT
GANGASANDRA SIDDAPPA BASAVARAJ

Will the Minister of LAW , JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether Justice V. Eradi Committee has submitted its report;

(b) if so, the details of the recommendations made by the Committee; and

(c) the response of the Goverrnment thereon and the steps taken to implement the recommendations?

Answer

MINISTER OF LAW, JUSTICE & COMPANY AFFAIRS AND SHIPPING (SHRI ARUN JAITLEY)
(a) : Yes, Sir.

(b) : Some of the important recommendations of the Committee are as under:

(i) Setting up of a National Tribunal with the powers presently exercised by (a) Company Law Board (CLB) (b) Powers exercised by High Court regarding Winding up of Companies, amalgamation scheme or arrangement matters and (c) Powers exercised by BIFR/AAIFR under Sick Industrial Companies (Special Provisions) Act, 1985.

(ii) SICA should be repealed and the Companies Act, 1956 be amended accordingly.

(iii) UNCITRAL Model Law as approved by the United Nations may be incorporated as a schedule to the Companies Act, 1956 for cases relating to Cross Border Insolvency.

(iv) The Committee strongly recommends appointing Insolvency Professionals who are members of Institute of Chartered Accountants of India (ICAI), Institute of Company Secretaries of India (ICSI), Institute of Cost and Works Accountants of India (ICWAI), Bar Councils or corporate managers who are well versed in Corporate management on lines of U.K. Insolvency Act.

(v) A Fund for revival, rehabilitation and protection of Companies may be created under the supervision and control of the Government. The Fund shall be maintained and operated by an officer authorised in that behalf of such Government.

(vi) The Committee is of the view that the specific provisions may be made in the Companies Act, 1956 that the liquidator may distribute interim dividend.

(vii) Failure to file Balance Sheet and Profit and Loss Account and/or Annual Return for last three years has been proposed to be added to Section 433 of the Companies Act, 1956 as a ground for presentation of winding up petition.

(viii) It is proposed to be made obligatory to file Statement of Affairs by the company filing petition and/or opposing the winding up petition alongwith counter affidavit/reply.

(c) The Government is contemplating to bring a Legislation in the current Session of the Parliament.